

Common law writs under the All Writs Act are not available to a defendant to raise claims that were or could have been raised through other remedies, such as

a motion for new trial or a motion to vacate sentence under 28 U.S.C.A. § 2255. *See, e.g., United States v. Johnson*, 237 F.3d 751, 755 (6th Cir. 2001) (writ of error coram nobis); *United States v. Valdez–Pacheco*, 237 F.3d 1077, 1080 (9th Cir. 2001) (writ of audita querela). Because the defendant's challenge to the legality of his sentence could have been raised in a § 2255 motion, the defendant cannot recast the claim as arising under § 1651. I will thus treat his motion as one under § 2255.

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See 28 U.S.C.A. § 2255(h). The defendant previously filed a § 2255 motion concerning this same conviction and sentence. Because the defendant offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion, I must dismiss his current action without prejudice. A separate order will be entered.

DATED: August 20, 2012

/s/ James P. Jones
United States District Judge